



24 JAN 2006

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In re Application of	:	
EBERL, Heinrich A. et al.	:	DECISION
Application No.: 10/562,230	:	
PCT No.: PCT/EP00/09841	:	ON PETITION UNDER
Int. Filing Date: 07 October 2000	:	
Priority Date: None	:	37 CFR 1.137(b)
Docket No.: 10795.56948US	:	
For: INFORMATION SYSTEM	:	

This is a decision on applicants' "Petition For Revival of an Unintentionally Abandoned Under 37 C.F.R. §1.137(b)," filed in the above-captioned application on 23 December 2005.

BACKGROUND

On 07 October 2000, applicants filed an international application number PCT/EP00/09841. A demand for international preliminary examination was filed on 24 April 2002, prior to the expiration of nineteen months from the priority date. As such, the thirty month period for entering the national stage in the United States expired at midnight on 07 April 2003.

On 23 December 2005, applicants filed a transmittal letter for entry into the national phase in the United States, accompanied by a petition to revive.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) the required reply, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995). Pursuant to 37 CFR 1.137(b)(3), additional information may be required where there is a question whether the delay was unintentional.

Items (2), (3) and (4) have been satisfied. The basic national fee and the petition fee have been supplied. A terminal disclaimer is not required as the application was filed on or after 08 June 1995.

Item (1) has not been satisfied. While the required statement has been provided, additional information explaining the delay is now required. It is not clear from applicants' petition that the abandonment and the subsequent delay in entry into the United States was unintentional. It is not necessary for an applicant to hold the entire right to an invention to file a patent application for it. Further information and supporting documentation are required.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice.

The application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)."

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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